

Amendments to the Drawings

Filed herewith are replacement drawing sheets for Figs. 1- 17. It is respectfully requested that the replacement drawing sheets be substituted for the originally filed drawing sheets for Figs. 1 - 17.

Remarks

The above Amendments and these Remarks are in reply to the Office action mailed June 14, 2007. Currently, claims 38 -73 are pending. Applicants respectfully request reconsideration of claims 38, and 40 -73.

I. Summary of the Examiner's Objections

Claim 48 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 38-46 and 50-73 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,233,589 ("*Balcha*" herein).

Claims 47-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Balcha*.

Claims 38-73 were rejected under the doctrine of obviousness-type double patenting as being un-patentable over claims 1-29 of U.S. Patent No. 6,671,757 (Attorney Docket No. FUSN1-01002US0).

II. Summary of the Amendments

Applicants have amended claims 38, 48, 53, 63 and 68 and cancelled claims 39.

III. Remarks

A. Objection To Claim 48

Claim 48 has been amended to depend from claim 47. It is respectfully submitted that the rejection under 35 U.S.C. § 112, second paragraph, is moot in view of the amendment to claim 47.

B. Rejection of Claims 38 – 46 and 50 – 73 Under 35 U.S.C. § 102(e)

It is respectfully submitted that claims 38, 40 – 46 and 50 – 73 are not anticipated by *Balcha*, United States Patent 6,233,589. Each independent claim, as amended, includes a limitation calling for:

a ... change log, each change log identifying one or more changes to application data for a particular user, and including binary difference data and application field data;

Balcha teaches a binary differencing application. The deltas created therein are binary in nature (See Col. 12, line 61 – Col. 13 line 35).

Initially, it is noted that contrary to the position of the examiner with respect to former claim 39, there is no feature disclosed in *Balcha* of a “change log” identifying “changes to application data for a particular user”. In setting forth that *Balcha* discloses this feature in paragraph 9 of the Office Action, the Examiner groups this feature with those of all of claims 39 – 42 and 51 – 52 and provides a citation to Col. 4, lines 1 – 16, col. 5, lines 4 – 67, col. 7 line 44 – col. 8, line 18 and col. 15, lines 29 – 33.

None of the aforementioned citations specify that change log identifies a “change to application data for a particular user.” As explained in the specification at p. 72- lines 5 -19:

Data package objects are organized into a hierarchy as follows:

```
Account ::= DeviceList + DataClassList
DeviceList ::= {Device}
DataClassList ::= {DataClass} + ProviderList
ProviderList ::= {Provider} + DataStoreList
DataStoreList ::= {Folder} + ItemList
ItemList ::= {Item} + FieldList
FieldList ::= {Field}
```

An account is the root structure, which identifies information about the user's account. It may have exemplary field tags (eFieldTag_[NAME]) such as Name, Password, UserName and Version. The FieldTag ItemType value is specified as ItemType_PIN using enumItemType.

Another feature not found in *Balcha* is the change log “identifying one or more changes ... including binary difference data and structured application data.” The inclusion of application data is described in the specification at pages 62 – 77. As noted above, the system in *Balcha* reflects binary difference data only. To the extent that the “delta” file or “signature file” of *Balcha* can be said to comprise a change log, Application field data is not reflected in the delta file generated by *Balcha*.

Because each independent claim includes a similar limitation, and each dependent claim by its dependency on such independent claim includes such features, it is respectfully submitted claims 38, 40 – 46 and 50 – 73 are not anticipated by *Balcha*.

C. Rejection of Claims 47 - 49 Under 35 U.S.C. Section 103

It is respectfully submitted that claims 47 – 49 are not obvious over *Balcha*.

The Examiner states *Balcha* teaches the invention substantially as claimed except for a management server. As set forth above, *Balcha* does not teach either a change log “identifying one or more changes ... including binary difference data and structured application data,” nor that the changes are “for a particular user.”

Since each and every feature of the claimed invention is not taught by *Balcha* it is respectfully submitted that the invention defined in claims 47 – 49 is not obvious over *Balcha*. One of average skill in the art would not be led by *Balcha* to provide both the binary delta taught therein in combination with structured application data changes in a change log. *Balcha* is focused on optimizing the binary differencing approach. Nothing therein would suggest combination with a structured data change in a change log file since such feature is no-where disclosed.

Hence, it is respectfully submitted claims 47 – 49 are not obvious in view of *Balcha*.

C. Non-Statutory Double Patenting

Included herewith is a terminal disclaimer in compliance with 37 CFR § 1.321 disclaiming the terminal portion of any patent granted on the instant application which extends beyond U.S. Patent No. 6,671,757.

Based on the above amendments and these remarks, reconsideration of Claims 38 and 40-73 is respectfully requested.

The Examiner's prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

Enclosed is a PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136 for extending the time to respond up to and including today, December 14, 2007.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: December 14, 2007

By: /Larry E. Vierra/
Larry E. Vierra
Reg. No. 33,809

VIERRA MAGEN MARCUS & DENIRO LLP
575 Market Street, Suite 2500
San Francisco, CA 94105-2871
Telephone: (415) 369-9660
Facsimile: (415) 369-9665